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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,929	11/25/2003	David Tanner	50325-0848	9766
29989 7590 05/16/2007 HICKMAN PALERMO TRUONG & BECKER, LLP 2055 GATEWAY PLACE SUITE 550 SAN JOSE, CA 95110			EXAMINER GUYTON, PHILIP A	
			ART UNIT 2113	PAPER NUMBER
			MAIL DATE 05/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/723,929	Applicant(s) TANNER, DAVID	
	Examiner Philip Guyton	Art Unit 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20040719</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 21-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 21 recites "a computer-readable medium carrying one or more sequences of instructions." According to the present specification, a computer-readable medium may take the form of transmission media (paragraph 30-32). However, this is not a process, machine, manufacture, or composition of matter as required by 35 U.S.C. 101. Thus, the claims are rejected as being non-statutory.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-36 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,874,099 to Balasubramanian et al. (hereinafter Balasubramanian).

With respect to claim 1, Balasubramanian discloses a method for diagnosing and repairing network devices on a network based on scenarios (abstract), comprising:

aggregating responses to a selectable list of queries (column 5, lines 21-24) for a plurality of scenarios on the network from a plurality of applications on the network devices (column 4, lines 30-40, column 7, lines 5-12); and

automatically evaluating the responses to formulate corrective actions to address the scenarios for the applications (column 4, lines 40-54, column 7, lines 25-34).

With respect to claim 2, Subramanian discloses presenting options to an operator of the network to invoke the corrective actions (column 5, lines 28-29, column 6, lines 19-29).

With respect to claim 3, Balasubramanian discloses presenting the responses to the operator of the network (column 6, lines 3-14, column 7, lines 11-13).

With respect to claim 4, Balasubramanian discloses issuing the queries to the applications in an automatically established sequence (column 2, lines 53-64).

With respect to claim 5, Balasubramanian discloses detecting modifications to the network and automatically modifying the queries to match the modifications (column 4, lines 57-62, column 8, lines 61-67).

With respect to claim 6, Balasubramanian discloses wherein the aggregating further comprising: filtering the responses according to a template; and organizing the responses in a format that conforms to a format of the template (column 2, line 64-column 3, line 2, column 7, lines 11-34).

With respect to claim 7, Balasubramanian discloses presenting the operator of the network an option to customize the queries, the plurality of the scenarios, and the corrective actions (column 4, lines 43-50, column 5, lines 25-29, column 6, lines 15-40).

With respect to claim 8, Balasubramanian discloses wherein each of the queries corresponds to one of the plurality of scenarios (column 2, lines 53-64).

Claims 9-12 recite equivalent subject matter as claims 1-8, and are therefore rejected under the same rationale.

Claims 13-20 recite an apparatus for performing the method of claims 1-8, and are rejected under the same rationale.

Claims 21-28 recite a computer-readable medium for performing the method of claim 1-8, and are rejected under the same rationale.

Claims 29-36 recite an apparatus comprising means for performing the method of claims 1-8, and are rejected under the same rationale.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Guyton whose telephone number is (571) 272-3807. The examiner can normally be reached on M-F 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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5/11/07


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